

PENDING CALIFORNIA LEGISLATION of interest to banks, as of April 2, 2003  
2003

**A.B. 3** (Calderon), as amended February 19, 2003, with Committee on Banking and Finance. Hearing scheduled April 21, 2003.

Consumer Credit Reporting Agencies Act of 2004. Would amend Civil Code 1785.13(d) to require a consumer credit reporting agency to remove adverse information within 30 days (instead of 90) after the agency is prohibited from including the information.

Would amend Civil Code 1785.25 to require lienholders that have furnished information to consumer credit reporting agencies to report within 30 days that a reported lien has been released, or that an incident that resulted in the reporting of adverse information has been resolved.

Would add Civil Code 1785.15.4 and 1785.20.4 to require both consumer credit reporting agencies and users of consumer credit reports to treat as a single inquiry all inquiries received within a 30 day period as a result of a consumer's shopping for credit terms; also, agencies and users could not use inquiries received from transactions not initiated by the consumer.

**A.B. 46** (Similian), as amended March 19, 2003, with Committee on Appropriations. No hearing scheduled.

Would add Civil Code 1798.85.1 to prohibit an employer from requiring an employee to use his/her social security number in a manner that is available to the public or an unauthorized third party.

Would amend Labor Code 226 to allow employers to use personal identification numbers other than social security numbers on wage statements. Other identity theft provisions (Penal Code 667.13)

**A.B. 70** (Wyland), as amended March 5, 2003. Passed Assembly 77-0, and moved to Senate.

Would amend Penal Code 502.01 to add to the list of offenses for which a computer, etc., used in the commission of the offense would be subject to forfeiture.

**A.B. 73** (Lowenthal), as amended March 24, 2003, with Committee on Banking and Finance. N hearing scheduled.

Would add Financial Code 4003 to prohibit a charge card issuer, financial institution, or other lender from soliciting consumer loans or credit by sending unsolicited checks to

consumers who reside in California, unless the consumer has been given a notice that allows him or her to avoid receiving the checks. Any unsolicited check would have to include a notice on how the consumer can avoid receiving future unsolicited checks. Violation would result in liability for the amount of the check and any nonsufficient funds fees.

**A.B. 129** (Cohn), introduced January 15, 2003, with Committee on the Judiciary. Hearing had been scheduled March 4, 2003, but was cancelled at the request of the author.

Would add Civil Code 1798.90.1 to the Information Practices Act of 1977 to make it a misdemeanor (maximum one year in jail and \$10,000 fine) for a business that uses information encoded on a state driver's license or ID card to record, store, or retain the information for marketing purposes

**A.B. 169** (Chavez), as amended February 24, 2003, with Committee on Banking and Finance. Hearing scheduled April 21, 2003.

Would add Financial Code 22012 and 22100.5 and would amend Financial Code 22050 and 222754 to exempt certain venture capital companies from the California Finance Lenders Law. An exempt person could apply for a license from the Commissioner of Corporations. If the license is granted, the person would be subject to the Finance Lenders Law.

**A.B. 196** (Leno), as amended March 26, 2003, with the Committee on Appropriations. Hearing scheduled April 2, 2003.

Bill is intended to address gender stereotyping. It would amend Government Code 12926 and 12949, which prohibits discrimination and harassment on the basis of sex, etc., by including gender in the definition of sex. Employers would be permitted to require employees to comply with reasonable workplace appearance, grooming, and dress standards (consistent with state and federal law), if employees are allowed to appear or dress consistently with their gender identity.

**A.B. 224** (Kehoe, Cohn), as amended March 24, 2003, with Committee on Business & Professions. No hearing scheduled.

Would add Civil Code 1748.35 to 1748.40 to allow a retailer to electronically read a driver's license or ID, and to store the data, only for specified purposes, such as to comply with laws requiring background checks. A retailer could not sell the data, and could share it only under certain circumstances. Actual damages (minimum \$1,500) plus

reasonable attorney's fees. Triple damages if willful. A retailer could not deny goods or services to a consumer who exercises his rights under the bill.

**A.B. 309** (Chu), as amended March 13, 2003, with Committee on Banking and Finance. No hearing scheduled.

Would amend Civil Code 1632 to requiring that any person engaged in a trade or business who negotiates specified contracts primarily in any foreign language (not just Spanish) to deliver a translation of the contract before execution. The bill would become effective only if S.B. 146 is enacted and becomes effective on or before January 1, 2004.

**A.B. 313** (Dutra), introduced February 7, 2003, with Committee on Banking and Finance. Received do-pass (10-0) at hearing on April 1, 2003; re-referred to Committee on Appropriations with recommendation to consent calendar..

Would repeal Financial Code 50707 (which sunsets the California Residential Mortgage Lending Act as of June 30, 2005), thereby making that law, which licenses and regulates mortgage lenders permanent.

**A.B. 418** (Pacheco), as amended March 20, 2003, with Committee on the Judiciary. At hearing on April 1, 2003 received do-pass (13-0), re-referred to Committee on the Judiciary.

Would amend Code of Civil Procedure 415.20, 415.45, and 415.46, and would add CCP 41595, on delivery of process. If the form of a business organization is unknown, delivery can be to a person apparently in charge.

**A.B. 485** (Ridley-Thomas), introduced February 14, 2003, with Committee on Banking and Finance. No hearing scheduled.

Would amend Financial Code 4979.7 to extend from 30 to 90 days the period within which a person who originates a consumer loan may not finance credit life, etc., insurance to the same borrower.

**A.B. 578** (Leno), introduced February 18, 2003, with Committee on Local Government. No hearing scheduled.

Would amend Government Code 27361.4 and add Government Code 27279.5 to allow county recorders to develop electronic recording systems, and to charge up to \$1 more per document for any document filed electronically.

**A.B. 679** (Chavez), introduced February 19, 2003, with Committee on Banking and Finance. Hearing scheduled April 21, 2003.

Would amend Business & Professions Code 10229 to require a real estate broker to file information with the Real Estate Commissioner about any transaction to sell or offer to sell a series of notes secured directly by interests in one or more parcels of real property or the sale of undivided interests in a note so secured. The bill would prohibit the aggregate principal amount of the notes or interests and encumbrances from exceeding certain percentages of market value for each parcel, and would require a written statement or appraisal to be delivered to the purchaser.

**A.B. 690** (Pacheco), as amended March 27, 2003, with the Committee on the Judiciary. At hearing on April 1, 2003, received a do-pass (13-0), to consent calendar.0

Would amend Code of Civil Procedure 488.455 and 700.140 to allow a financial institution to designate a centralized location to receive notices of levy on deposit accounts.

**A.B. 707** (Correa), introduced February 19, 2003, with Committee on Education. No hearing scheduled.

Would add Education Code 51833 to require the State Board of Education and the Superintendent of Public Instruction to develop curriculum and educational programs in personal financial management for kindergarten and grades 1 – 12.

**A.B. 763** (Liu), introduced February 19, 2003, with the Committee on the Judiciary. Hearing schedules April 22, 2003.

Would amend Civil Code 1798.85 to prohibit mailing social security numbers on postcards or visible on envelopes, and to prohibit use of disguised social security numbers in place of social security numbers in a manner prohibited by the CCP.

**A.B. 800** (Kehoe), introduced February 20, 2003, with Committee on Banking and Finance. No hearing scheduled.

Would amend Civil Code 1785.1, 1785.25, and 1785.31 to allow reporting of information to consumer credit agencies only when the reporter has reason to believe that the information is accurate and complete, to revise the process for investigating disputed information, and to provide for statutory damages (in addition to actual damages and attorneys fees) of not less than \$2,500 to a person damaged by a negligent violation.

According to Maureen Patten, this bill is sponsored by the California Realtors, and is opposed by the CBA.

**A.B. 832** (Montanez), introduced February 20, 2003, with Committee on Banking and Finance. No hearing scheduled.

Would add Financial Code 22302.5 to prohibit a licensed lender from denying an application for a consumer loan solely on the basis of race, ethnicity, national origin, native language, or ZIP code of the applicant's residence or business. All remedies at law and equity, including an action for injunctive relief.

**A.B. 1078** (Runner), as amended March 28, 2003, with Committee on Banking and Finance. No hearing scheduled.

As introduced, would amend Business and Professions Code 17514 on electronic sellers who solicit newspaper or magazine subscriptions. As amended, the bill would also add Civil Code 1689.4 to allow any person age 65 or older 60 calendar days to rescind any contract with a financial institution (as defined in 12 U.S.C. 1843(k)) doing business in California if the transaction has financial implications for the person.

**A.B. 1092** (Harmon), as amended March 25, 2003, with Committee on Business and Professions. No hearing scheduled.

Would amend Civil Code 1749.5 and add Civil Code 1749.45 to prohibit the sale of any gift certificate or gift card that contains a service fee.

**A.B. 1105** (Jackson), introduced February 20, 2003, with Committee on Public Safety. No hearing scheduled.

Would amend Penal Code 803 to run the statute of limitations for identity theft from the time of discovery of the offense.

**A.B. 1175** (Koretz), introduced February 21, 2003, with Committee on Banking and Finance. Hearing scheduled May 5, 2003.

Would add Civil Code 1747.08 to prohibit a credit card issuer from sending out unsolicited preprinted credit card solicitations containing the consumer's name and address or other personal information.

**A.B. 1226** (Montanez), introduced February 21, 2003, with Committee on Business and Finance. No hearing scheduled.

Would add declare that credit unions are full-service retail depository institutions that can and do solicit potential members from an ever-expanding base, and that they accrue great benefits from doing business in California. Would direct the Legislative Analyst's Office to review the feasibility of imposing a fee on any credit union (state- or federally-chartered) for the purpose of funding public education and create some parity with other financial institutions.

**A.B. 1295** (Calderon), introduced February 21, 2003, with Committees on Aging and the Judiciary. No hearing scheduled.

Would add Welfare & Institutions Code 15710 et seq. to establish pilot programs in Los Angeles, San Diego, and San Francisco Counties for training bank employees in recognizing and reporting known or suspected instances of financial abuse of elders and dependent adults.

**A.B. 1355** (Wiggins), introduced February 21, 2003, with Committee on Banking and Finance. Hearing scheduled April 21, 2003.

Would add Financial Code 216.3 and 216.7, and repeal Financial Code 1913.5, 5330, 14208, 14210, and 18349.5, thereby amending the laws relating to DFI imposition of civil money penalties, suspension or removal of bank, etc., personnel, and the like.

Maureen Padden says that the CBA has suggested a number of amendments; she is not clear which ones the DFI will agree to. She suggests that anyone who wants to know the DFI's position here should contact the DFI's legislative director, Meg Svoboda, at 916-322-5923.

**A.B. 1664** (Montanez) , introduced February 21, 2003, with Committee on Banking and Finance. No hearing scheduled.

Would add Financial Code 4200 through 4213, the Bank Customer Bill of Rights, which would apply to California state banks and to foreign (other nation) banks licensed under Financial Code 1750 et seq.

A bank could not sell private credit information about a customer to a marketing business for profit without the customer's consent; could not charge customers using the bank's ATM cards an overdraft penalty of \$30 or more without providing notice of cumulative charges; could not issue credit cards with interest rates more than 2% above the prime rate; and could not charge more than "average" on a consumer loan if the customer qualifies for a lower rate and the bank has not advised the customer of that fact.

**A.B. 1705**, introduced February 26, 2003, with Committee on the Judiciary. Hearing scheduled April 22, 2003.

Would add Probate Code 16004.5 to prohibit a trustee from requiring a beneficiary to relieve the trustee of liability as a condition for making a required distribution or payment to or for the benefit of the beneficiary.

According to California Bankers' Maureen Patten, this bill is likely dead.

**A.B. 1713**, introduced February 26, 2003, with Committee on the Judiciary. Hearing scheduled April 22, 2003.

Would amend Code of Civil Procedure 1280 and add CCP 1281.24 and 1287.1 on consumer arbitration agreements.

**A.B. 1715**, introduced February 26, 2003, with Committee on the Judiciary. Hearing scheduled April 22, 2003.

Would amend Code of Civil Procedure 1281 and add Government Code 12952 on employment arbitration.

**A.B. 1772**, introduced March 13, 2003, with Committee on Banking and Finance. Hearing scheduled May 5, 2003.

Would amend Penal Code 530.8 on identity theft.

**A.B. 1773**, introduced March 13, 2003, with Committees on Banking and Finance, and Public Safety. Hearing scheduled April 21, 2003.

Would amend Penal Code 786, on venue for identify theft prosecutions.

**A.B. 1774**, introduced March 13, 2003, with Committee on Banking and Finance. Hearing scheduled April 21, 2003.

Would amend Financial Code 261, 722, 1500, 1560, 1808, 1900, 4839, 4843, 4946, 8152, 14250, 14354, 16151, 16701, 31507, and 33903; would amend and renumber Financial Code 4879.12, 4879.13, and 4879.135; and would repeal Financial Code 8012. The bill would revise the provisions authorizing the DFI to examine banks et al. (authorizing examination of offices both instate and out-of-state), and to deliver to state or federal law enforcement agencies fingerprints of applicants for employment or for controlling

persons for existing or proposed banks, etc. The bill would also revise the provisions authorizing banks and trust companies to make investments.

**A.B. 1776**, introduced March 18, 2003, with Committees on Banking and Finance and the Judiciary. Hearing scheduled April 21, 2003

Would amend Corporations Code 2105 on access to records of foreign corporations.

**S.B. 1** (Speier and Burton), as amended February 13, 2003, with Committee on the Judiciary. Not set for hearing. Held at Desk after first reading as amended,

Would enact the California Financial Information Privacy Act (Financial Code 4050 to 4059). A financial information could share a consumer's nonpublic financial information

- with affiliated companies, only if the consumer has not opted out after receiving a specific notice;
- with nonaffiliated financial companies with who the financial institution has contracted to provide financial products and services, only if the consumer has not opted out after receiving a specific notice;
- with nonaffiliated companies which whom the financial institution has not entered into a contract, only if the consumer has opted in after receiving a specific notice.

The law would preempt local ordinances.

**S.B. 25** (Bowen), as amended March 6, 2003, with Senate Committee on Appropriations. Hearing scheduled April 7, 2003.

Would amend Civil Code 1785.11.1 and 1798.15 to require any person who uses a consumer report in connection with the approval of credit to take reasonable steps to verify the consumer's identity. If a person has placed a security alert in his/her file requesting that identity be verified by calling a specific telephone number, the person who receives the statement with the consumer alert must call that number before lending money or the like.

Would also amend Civil Code 1798.85, on use of or posting of social security numbers.

**S.B. 27** (Figueroa), as amended January 9, 2003, with Senate Committee on Judiciary. Hearing scheduled April 22, 2003..

Would amend Civil Code 1798.80 through 1798.84, to allow a consumer to demand a written report from any business that has disclosed the consumer's personal information



to a third party for direct marketing purposes. The report would have to include a description of the sources and recipients of the information, and copies of the information disclosed. No business could condition the sale of goods or services on the consumer's consent to disclosure of the consumer's personal information to third parties for direct marketing purposes.

Violation: Civil penalty of up to \$3,000 and reasonable attorneys fees.

**S.B. 69** (Oller), introduced January 17, 2003, with Senate Committee on the Judiciary. No hearing set.

Would amend Civil Code 54.1 to require advance warning, and opportunity for cure, of any claim that a place of public accommodation (such as an ATM machine) does not provide full and equal access to persons with disabilities.

**S.B. 122** (Escutia), introduced February 4, 2003, with Senate Committee on the Judiciary. No hearing scheduled.

Would amend Business & Professions Code 17204 to require any person suing under Bus. & Pro. Code 17,200, etc., on behalf of himself or the general public to notify the local district attorney within 3 days.

**S.B. 134** (Figueroa), introduced February 5, 2003. With Senate Committee on the Judiciary. Hearing scheduled April 22, 2003.

Would amend Civil Code 3259.5 to require the owner of a private work of improvement to notify by certified or registered mail the original contractor, and any claimant who has provided a preliminary 20-day notice prior to recording a mechanics lien or stop notice, that a notice of completion or a notice of cessation has been recorded within 10 days.

**S.B. 186** (Murray), as amended March 17, 2003, with Senate Committee on RLS. No hearing scheduled.

Would amend Business & Professions Code 17538.4 and add B&PC 17529 et seq. to prohibit advertisers, whether or not in California, from sending unsolicited commercial e-mail advertising to California e-mail addresses. Damages recoverable: \$1,000 per individual violation.

**S.B. 283** (Sher), introduced February 18, 2003, with Senate Committee on the Judiciary. Hearing scheduled April 22, 2003.

Would amend Commercial Code 9102(2), 9304, 9309, to deal with lottery winnings as accounts. Bill may be amended to include amendments to UCC Articles 1, 3, and 4.

**S.B. 342** (Florez), introduced February 19, 2003, with Senate Committee on Business & Professions. No hearing scheduled.

Would amend Business & Professions Code 17534.8 and add B&PC 17538.43 to require any sender of unsolicited e-mail to include the seller's identity, etc., and to honor any request not to send future e-mails.

**S.B. 395** (Florez), introduced February 20, 2003, with Senate Committee on Banking, Commerce & International Trade. Hearing scheduled April 30, 2003.

Would add Financial Code 13042 to require that every ATM in California be equipped with an emergency access button for customer safety.

**S.B. 434** (Escutia), as amended March 26, 2003, with Senate Committee on the Judiciary. Hearing scheduled April 22, 2003

Would amend various provisions of the Corporations and Government Code and add Penal Code 131, dealing with investigations of possible violations of securities laws. Among other things, the bill would provide for sharing of information with agencies of other states.

**S.B. 455** (Torlakson), introduced February 20, 2003, with Senate Committee on the Judiciary. Hearing scheduled April 8, 2003.

Would amend Civil Code 1697.7 and 1697.8 re home equity sales contracts. The bill would increase the maximum fine against equity purchasers from \$10,000 to \$25,000, and require a court to award a civil penalty or not more than \$2,500 (in addition to actual damages) to a prevailing equity seller.

**S.B. 505** (Perata), introduced February 20, 2003, with Senate Committee on the Judiciary. First hearing cancelled at the request of the author; no new hearing scheduled.

Would add Civil Code 1726, the Postmark Payment Act, that payments to financial institutions regulated by the Financial Code or to credit cards issuers regulated by Financial Code 1747 et seq. would be deemed received as of the date of the Postal Service's postmark, if the envelope is properly addressed, postage prepaid.

**S.B. 584** (Alarcon), introduced February 20, 2003, with Senate Committee on the Judiciary. Hearing scheduled April 8, 2003.

Would add Business & Professions Code 17531.3 to require any person (other than a 501(c)(3) nonprofit) who advertises or promotes a service or product in a language other than English to notify the customer of his/her right to certain materials in that language. Sole remedy for violation: civil penalty of \$2,500 per violation plus attorneys fees.

**S.B. 590** (Speier), introduced February 20, 2003, with Senate Committee on the Judiciary. No hearing scheduled.

Would add Civil Code 1749.70 et seq. to allow a seller to request personal information from a consumer only as necessary to effect, administer, or enforce a consumer purchase transaction that the consumer has requested or authorized, and would allow a seller to provide such information to third parties (including affiliated entities) only for the same reasons.

**S.B. 660** (Speier), introduced February 21, 2003, with Senate Committee on the Judiciary. Hearing scheduled April 29, 2003.

Would add Government Code 68154 to require confidential treatment of any court record that contains a person's social security number, bank account numbers, or information revealing the disposition of a decedent's estate.

**S.B. 663** (Speier), introduced February 21, 2003, with the Committees on the Judiciary and on Revenue & Taxation. Hearing scheduled March 26, but postponed.

Would add Civil Code 1798.855 and Revenue & Taxation Code 408 and 408.1, and add R&TC 408.15 to prohibit title companies from posting or displaying social security numbers, to prohibit county assessors from posting or displaying the name of any natural person in any public record (classifications of such records would be by parcel number and address).

**S.B. 691** (Escutia), introduced February 21, 2003, with Senate Committee on Insurance. Hearing scheduled May 7, 2003.

Would add Civil Code 1785.20.4 and Insurance Code 676.18 to require that an applicant's credit history not be used in a manner that would disparately impact a protected class, and to prohibit underwriting standards for homeowners insurance from including an applicant's or insured's credit history.

**S.B. 766** (Florez), introduced February 21, 2003, with Senate Committee on the Judiciary. No hearing scheduled.

Would amend Corporations Code 25500 to abrogate certain holdings of Kamen v. Lindly and California Amplifier, Inc. v. RLI Insurance Co., two securities fraud cases.

**S.B. 804** (Machado), introduced February 21, 2003, with Senate Committee on the Judiciary. Hearing scheduled April 22, 2003

Would amend Code of Civil Procedure 704.730 increase the homestead exemption (which was last increased three years ago) by 25%.

**S.B. 901** (Dunn), introduced February 21, 2003, with Senate Committee on Banking, Commerce, & International Trade. Hearing scheduled April 30, 2001

Would add Financial Code 60000 et seq., the California Community Reinvestment Act, to replicate the Federal Community Reinvestment Act on the state level. The bill would include both state and federally-chartered banks and credit unions, although the author will likely eliminate any coverage of credit unions.

**S.B. 917** (Alarcon), introduced February 21, 2003, with Senate Committee on the Judiciary. No hearing scheduled.

Would amend Corporations Code 309 to prohibit a director from performing his/her duties at the expense of the environment, human rights, the public health and safety, the communities in which the corporation operates, or the dignity of the corporation's employees. Suits against the director or the corporation under the bill would only be for liabilities that accrue after January 1, 2017. [That is not a typo!]

**S.B. 1022** (Perata), introduced February 21, 2003, with Senate Committee on Public Safety. Hearing scheduled April 29, 2003.

Would add Civil Code 1788.18 to require debt collectors to tell consumers that they (consumers) can record all conversations with debt collectors. Any written instrument that a debt collector gives to a consumer must contain a similar notice.

**S.J.R. 2** (Figueroa), introduced December 2, 2002, with the Committee on the Judiciary. No hearing scheduled.

Would request the U.S. Congress not to preempt any state privacy law that provides greater protection to consumers than is or will be provided by federal law.

Copies of the most recent text of any bill, and the dates of any scheduled hearings, can be obtained at [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

Bob Mulford     April 2, 2003